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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1970

No. 70-18

JANE ROE, *et al.*,

Petitioners,

vs.

HENRY WADE,

Respondent.

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE

Robert L. Sassone hereby respectfully moves for leave to file a brief amicus curiae in this case. The consent of the attorneys for the parties has been obtained.

The interest of Robert L. Sassone in this case arises from the fact that he is the President of LIFE (League for Infants, Fetuses, and the Elderly, an organization of over a thousand individuals, including many clergymen, doctors and attorneys). The members of LIFE fear that declaring abortion control laws unconstitutional may lead to lessened respect for the value of human life.

Certain of the individual members of LIFE have examined certain of the recent lower court decisions and briefs relating to the constitutionality of abortion control laws. These

examinations have indicated that certain statistical, medical and sociological arguments by defendants have not been answered, or that the answers have omitted important data. In addition, arguments in favor of the right to live of the unborn have omitted important data. The rights of the unborn are relevant in determining the constitutionality of the abortion control law in question, because abortion involves a balancing of rights, not a mere consideration of only the rights of the mother.

The present brief sets forth data in short sections which may be read separately if the Court feels that the data in any of the individual sections is relevant and not adequately set forth elsewhere.

Respectfully submitted,

ROBERT E. DUNNE,

Attorney for Amicus Curiae.

Dated: July 28, 1971.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1970
No. 70-18

JANE ROE, *et al.*,

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Respondent.

BRIEF OF AMICUS CURIAE ROBERT L. SASSONE IN SUPPORT OF RESPONDENT

The Powers Of A Sovereign State Include The Power To Limit The Reasons For Abortion.

Nearly every nation at some time or other has forbidden or strictly limited the power of a woman to obtain an abortion. The Tenth Amendment states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." Accordingly, unless it is shown that the Constitution prohibits states from limiting the reasons for abortion, the states have that power. Those nations, such as England, which respect rights not enumerated in a formal constitution afford a precedent for the scope of protection which should be afforded women seeking an abortion because of a right to privacy guaranteed by the Ninth Amendment, since the Ninth Amendment reserves to the people those rights of the people not enumerated in the Constitution. A search of the laws of other nations has not indicated any other nation which has defined the inherent rights of the people to include a right to privacy in women sufficiently broad to prevent the state from regulating the reasons for obtaining an abortion.

In Areas Other Than Abortion The Right To Privacy Is A Relative Right, Not An Absolute Right.

Numerous examples in Tort and Criminal Law indicate that the right to privacy is a relative right.[1] A woman cannot in privacy, even though she harm no other person, legally

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[1] Tort Law limitations on the Right of Privacy are outlined in Prosser on Torts, 3rd Edition, 1964, Chapter 22.

utilize or even possess certain forbidden drugs such as LSD or heroin. The right to privacy was considered a mere relative right by the framers of the Constitution. Had they not considered the right to privacy a mere relative right, they would not have carefully defined additional protection for the small portion of the right to privacy protected by the guarantee against unreasonable search and seizure.

The Right To Life Is The Most Nearly Absolute Right.

The right to life forms the foundation for nearly all other rights. Remove the right to life and the other rights become valueless. The preciousness of this right to the unborn may be surmised from the following:

"We hold these truths to be self-evident; that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these rights are life . . . that to secure these rights, governments are instituted among men . . . . " Declaration of Independence.

"Nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction that equal protection of the laws." Fourteenth Amendment, Constitution of the United States.

"The child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth." Declaration of the Rights of a Child, General Assembly of

the United Nations, November 20, 1959.

In Areas Other Than Abortion The Right To Privacy Is Insufficient Reason To Take The Life Of Another Human Being.

In areas other than abortion the right to privacy does not give the right to take the life of another human, even an invading inferior human being. There is a dispute as to the seriousness of the imposition on the woman *by her unborn baby*. The extent of the woman's right to privacy should be determined in part by the seriousness of the invasion of that right to privacy. Analogous in some ways to the invasion of a mother's body by an unwanted unborn baby is the invasion of a building by a trespasser or a petty thief, where the thief's right to live is protected. "But spring guns and other man-killing devices are not justifiable against a trespasser or even a petty thief."[2]

When we apply the well-tested common law policy relating to traps to abortion, we find that the case for the preservation of life is stronger in many ways in the case of abortion, where the baby is invited in by actions by the woman.

In the case of the traps, the person whose right to privacy is being invaded is entirely powerless to prevent the invasion in many cases, since the measures necessary to make property thief-proof cost more than most persons can afford. In the case of abortion, the mother not only has the power to prevent the pregnancy, she had to actively participate in a sexual act before the conception could

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[2] *Ibid.* p. 118.

occur. In addition, after participating, she had to refrain from taking steps, such as a morning-after pill or D & C, to prevent implantation. In the case of traps, the protected invader of privacy may well be guilty of a criminal act, yet he still is protected. In the case of abortion, the victim is personally entirely innocent, regardless of the acts of his parents.

Burden And Degree Of Proof.

Whenever a human being is faced with the legal loss of his life, the burden of proof that that person should lose his life lies with those who are attempting to take his life, and the burden of proof is not a mere preponderance of the evidence. The Court should not do less in the case of innocent unborn humans than it does for more mature humans who are accused of serious crimes. Before defining the law to permit the killing of millions of unborn children, the Court should require the pro-abortionists to prove their case beyond a reasonable doubt.

The Scope Of The Right To Privacy In The Area Of Abortion Should Be Determined In Part By Comparing The Conflicting Rights And By Determing The Results Likely To Follow If Various Alternatives Are Adopted.

The issue of abortion is more than a question of the freedom of a woman to control the reproduction functions of her body. It is also a question of those circumstances under which a human being may be permitted to take the

life of another. Granting an absolute right to aborton because of the right to privacy will cause abortion on demand to exist, the advantages and disadvantages of abortion on demand may be analyzed in part by analyzing the experience of the large nations which have had sufficiently large volume of abortions over a sufficiently long period of time under carefully monitored conditions.

Loosening Abortion Laws May Have Significant Unforeseen Future Effects.

In *Ballard v. Anderson,* 4 Cal.3d 873, 484 P.2d 1345, 95 Cal.Rptr. 1 (1971), the California Supreme Court ruled that the 1967 California Abortion Law permits a minor of any age to get an abortion without parental knowledge or consent, a result not mentioned during debate in 1967. A New York court has held that New York cannot limit medicaid for abortions to abortions for medical reasons.[3] Neither of these events were foreseen or discussed at the time the respective abortion laws were being discussed. Declaring abortion laws unconstitutional may cause unforeseen, possibly unwanted, future events. Will a 12 or 13 year old girl then have the right to become pregnant and to get an abortion without parental knowledge and consent, such as happened in California? If the minor is permitted to get an abortion, does not her right to privacy give her a right to be sterilized without parental knowledge or consent? Will not more unborn Americans be executed in a relatively few years than the number of Jews by the Nazis? Will not a woman,

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[3]New York Times, May 19, 1971, page 1.

have a right to deliberately conceive a child, then kill that child by means of abortion, for purposes such as toxicity tests? It is probable that the unforeseen results from giving a woman an absolute right to privacy in the area of abortion will be far more imaginative than the few possibilities suggested herein. If the Court permits abortion for no reason, where will it logically be able to draw a line when the same anti-life arguments are extended?

Abortion Is Only The Opening Wedge Of A Broad Based Attack On The Right To Live.

The scope and severity of the attacks on the right to live are such that if the right to live is destroyed in a particular small area, it may be impossible to prevent the right to live from being destroyed in other areas. HB 3184, prefiled October, 1969, by Representative Sackett in Florida, and introduced annually since, would permit three doctors and one judge to order the execution of persons they felt deserving of execution. SB 1421-70, introduced by Nadao Yoshinaga, February 4, 1970, in Hawaii, the week after Hawaii passed its aborton-on-demand law, provides that every woman giving birth to her second child must be sterilized regardless of her opinions or belief or those of her doctor. These two bills, if passed, would make legal in America a large percentage of the actions of the Nazis which were labeled atrocities in the 1940's. There is sufficient pressure, however, to go far beyond these two bills in America today. The California Medical Association has stated in an an editorial: "The traditional western ethic has always placed great emphasis on the intrinsic worth and equal value of every human life

regardless of its stage or condition . . . . This traditional ethic is still clearly dominant, but there is much to suggest that it is being eroded at its core and may eventually even be abandoned . . . . It will become necessary and acceptable to place relative rather than absolute values on such things as human lives . . . . The process of eroding the old ethic and substituting the new has already begun. It may be seen most clearly in changing attitudes toward human abortion. In defiance of the long held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition or status, abortion is becoming accepted by society as moral, right and even necessary . . . . Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected. . . . Medicine's role with respect to changing attitudes toward abortion may well be a prototype of what is to occur . . . . One may anticipate further development of these roles as the problems of birth control and birth selection are extended inevitably to death selection and death control whether by the individual or by society."[4]

[4]California Medicine, September 1970, pp. 67, 68.

Whether it be best sellers such as "Population Bomb," which likens human beings to a cancer which must be removed–even though the operation will require many cruel and apparent heartless decisions, TV talk shows, magazine articles[5], or talks at schools, etc., general principles are being proposed for America today which are broad enough to encompass most of the worst acts of the Nazis. It is very possible that today in America the right to live may be whittled away by a series of small steps, each justified for varying reasons, so that the sum result of all those steps will be undesirable. The first and most difficult step is to establish in the law, as the Court is being asked to do in this case, that a certain class of human beings are subhumans whose lives may be taken with no more justification than needed to step on an ant. Once that first large step is taken, and the right to privacy becomes a license to kill, the subsequent small steps may come easily, rapidly and inevitably.

The Protection Of The Right To Life Should Be Based On Current Medical Knowledge (Which Indicates That A 10-Ounce Child Can Survive), Not Medical Knowledge Hundreds Of Years Old.

All would agree that "shooting or otherwise damaging a corpse is not homicide."[6] An apparently drowned child would have been pronounced dead in years past, and a court

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[5]"Control Of Population," *Life*, Feb. 20, 1970; "The Tragedy Of The Commons," *Science*, Dec. 13, 1968; "Our Role In The Generation, Modification And Termination Of Life," *Archives of Internal Medicine*, 1969; "Abortion And The Law," *Newsweek*, Apr. 13, 1970; Robert A. Harper in *OB-GYN News*, Nov. 1, 1969, and many others.

[6]Perkins, Criminal Law, 2d Ed. 1969, p. 31.

in those days would exonerate from homicide one who cut off the child's head a moment after the heart stopped. Would this be just today, when we have modified the definition of a corpse because of advances in techniques for life revival, restoration and resuscitation, such as artificial respiration, open heart massage, transfusions, transplants, and a variety of life-restoring stimulants, drugs and new surgical methods.

The "quickening" barrier for fetus survival was long ago broken. In the 1930's, a ten-ounce premature infant survived its early birth to grow to become a normal size adult.[7] This Court should not disregard the medicine of the 1930's and hold that a woman's right to privacy gives her a license to kill her unquickened unborn child because that child would have been too small to have survived in 1600. Nor should this Court rule that a nine-ounce child can be killed by its mother, because the "nine-ounce barrier" for premature infants is no more sacred than the "four-minute mile barrier" was for runners.

Experiments going back into the early 1960's[8] have indicated that artificial wombs for unborn humans are only a matter of time. It is expected that before the present decade ends,[9] that is, sometime before 1980, any unborn human being, perhaps even those weighing less than one ounce, old enough to have developed a placenta, may be removed from its mother, placed in an artificial liquid environment, fed food and oxygen from a heart-lung

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[7]Guinness Book of Records.

[8]"Alive In An Artificial Womb," an article in *Life Magazine*, August 28, 1964.

[9]Gordon Rattray Taylor, "The Biological Timebomb," pp. 37, 38, 207.

machine through its placenta, and enabled to develop until it can breathe and eat like a normal newborn child. This year, in Sydney, Australia, Richard Brodrick, a child only six inches long, nearly survived.[10] In a matter of a few short years, any woman wishing to terminate an early pregnancy will be able to terminate the pregnancy without the death of the child. The doctor will be able to carefully remove the placenta and child and give the child a chance to live, if the law protects the child.

" 'Responsible' physicians would hope not to abort a mother whose baby would be over one pound. But -- one of our colleagues recently witnessed a four pound baby killed by the salt method and delivered stillborn. Another practice is that of some so-called physicians in New York City and elsewhere of injecting salt solution and immediately sending the mother home. Within two weeks in Cincinnati two babies weighing three-and-a-fourth and three-and-three-fourths pounds were delivered dead from mothers who had had this procedure."[11]

Unless it sustains strong abortion laws, the Court will, in effect, make a new legal definition–the subhuman who can be killed with impunity. It will then be much easier to increase the scope and variety of those innocents falling within the "subhuman class" than it was to establish the first class of innocent, legal subhumans.

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[10] Los Angeles Times, Sunday, June 20, 1971, p. A3.

[11] "Handbook On Abortion," Dr. & Mrs. J. C. Willke, Hiltz Publishing Co., 1971, p. 29.

Abortion Has Caused Emotional Disturbance In Non-Christian Japan Among About 80% Of Aborton Patients.[12]

"The average of six surveys in Japan indicates that most women with abortion experience do not approve of it without reserve. The 1963 survey by the Aichi Committee on the Eugenic Protection Law indicates that 73.1% of the women who experienced abortion felt 'anguish' about what they did. In the 1964 survey of Dr. Kaseki, 59% responded that they felt abortion was something 'very evil' and only 8% said they don't think it should be called something bad. In the Gamagori City survey, 65% had some reason to be sorry. In the 1968 survey of the Nagoya City area, 67% of the women responded that they felt the fetus is an individual human being from the beginning, not a part of the mother. 42% of the women in the survey responded that abortion is not good. In addition another 57% that it is not good but it couldn't be helped; and only 1% didn't know whether to call it bad or good. In the 1969 survey by the Prime Minister's Office, 88% answered that abortion is bad, or it is not good but cannot be helped.

"In the 1965 Mainichi survey, only 18% responded that they 'did not feel anything in particular' when they experienced abortion for the first time; 35.3% felt 'sorry about the fetus'; 28.1% felt they did something wrong; 4.3% worried about fecundity impairments; 6.5% had other answers, and 7.9% did not answer." *Ibid.*

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12. "Japan's 22 Year Experience With A Liberal Abortion Law," Dr. Yokichi Hayasaka, *et al.*, p. 4.

In Japan, The Physical Abnormality Rate Following Abortion Has Been About 29%.

"All public opinion surveys taken indicate that several million women in Japan believe that their health has been harmed by abortion; that is, legal abortion. The surveys cover a total of 16-17 million married women, not counting the unmarried, among whom many have also experienced abortion. If roughly half of them have experienced at least one abortion (which is a conservative estimate); and if 30% of them have adverse health effects as a result, the number of women affected is already above 2.5 million; there are more if we also count the unmarried, and those who have moved into the higher age categories.

"This appears to be the picture which emerges from the public opinion surveys. In the 1959 Mainichi survey, 28.4% of those who had abortion reported 'some kind of bad effect'; in the 1963 Aichi survey, 13% indicated damage from the operation; in the 1964 Welfare Ministry survey, 24.1% indicated that they were physically unwell since the operation; in the 1965 Mainichi survey, 18.5% indicated (after only one abortion) that they were physically unwell after the operation; in the 1968 Nagoya survey by Women's Associations, 59% indicated that they were severely troubled with adverse after-effects, or in less good health; and in the 1969 survey of the Office of the Prime Minister, 31% indicated that some kind of physical abnormality came about as a result of abortion; this averages to 29% in the six surveys; not counting those who did not reply to this question.

"In the 1965 Mainichi survey, the percentage of complaints is seen to rise with the number of abortions experienc-

ed: 18.5% indicate that they were physically unwell after one operation; 22.7% after two; 40.4% after three; 51.7% after four operations. . . .

"The 1969 survey of the Office of the Prime Minister indicates the following list of complaints: 9.17% sterility (after 3 years); 14.8% habitual spontaneous abortion; 3.9% extra-uterine pregnancies; 17.4% menstrual irregularities; 20% abdominal pains; 19.7% dizziness; 27.2% headache; 3.5% frigidity; 13.5% exhaustion; 3.6% neurosis.

"Even though the operating physician performs everything normally the woman experiences a sudden change from the pregnant state to the non-pregnant state. Her body has been functioning at high capacity to provide nourishment for the developing fetus and to dispose of wastes. When the fetus is wrenched out of her body, the reason for this prodigious physical activity is suddenly removed. Dr. Y. Moriguchi compares it to slamming emergency brakes on a train which is going at full speed (Katorikku Shingaku, Jochi University, II, II, 4, pp. 353-362). As a result the syndrome of the unbalanced sympathetic nervous system may appear (see Dr. Nakatsu "Mistakes in Abortion and Prognosis" in OBSTETRICS AND GYNECOLOGY, Sept. 1960, pp. 53-59)."[13]

Abortion On Demand Has Not Been Made Socially Desirable By A Change In What People Believe Is Right.

An article on a Lou Harris poll of 4,000 Americans[14]

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[13] *Ibid.* pp. 5, 6.

[14] Los Angeles Times, May 13, 1971, Part IV, p. 23.

states: "And from what they answered, it appears the 1970's woman is as straitlaced as ladies of Victoria's day . . . . 65% of the women interviewed think premarital sex is immoral. More astounding, 54% of the men think so, too.

"Also shot down as socially unacceptable: trial marriages (77% of the women oppose and 69% of the men) and bearing children out of wedlock (85% of the women, 82% of the men oppose). In fact, 89% of the women and 87% of the men think society would fall apart without the institution of marriage."

Permissive Abortion Laws Are Unlikely To Reduce The Numbers Of Battered Children.

". . . Dr. Edward Lenoski, Professor of Pediatrics at the University of Southern California, did a four-and-a half year study of 400 battered children. He determined that 90% of the battered children in his study were planned pregnancies. Ninety per cent is far above average for planned pregnancies. Most of our readers undoubtably deeply cherish and love the children that they have been given. How many of you, however, actually planned the conception of 90% of them? We could apparently kill all 'unwanted' babies in the early stages of pregnancy, but still not significantly reduce the numbers of battered children.

"Dr. Lenoski has also determined that since the advent of the contraceptive pill (which has certainly reduced unwanted pregnancies), child beating is up threefold."[15]

15."Handbook On Abortion," Dr. & Mrs. J. C. Willke, Hiltz Publishing Co., 1971, Cincinnati, p. 49.

Deaths From Pregnancy Are Not Sufficient Reason To Forbid Abortion Limitation Laws.

United States Vital Statistics indicate a death rate per pregnancy caused by deliveries and complications of pregnancy, childbirth and the pur perium of 28 per hundred thousand in 1967. Some mothers, however, have less than adequate medical care during pregnancy. The true risk of pregnancy, given mediocre medical care, is probably closer to 10 deaths per hundred thousand births. United States Vital Statistics indicate that the death rate per hundred thousand live births among white New England women during 1965-67 was 10.8 per hundred thousand live births. The death rate among women receiving inadequate medical care is probably 5 to 10 times as high or perhaps even higher, as can be seen by the nationwide non-white death rate of 69.5 per hundred thousand live births in 1967. Those white women in New England who did not receive adequate medical care probably had a death rate far higher than 10 per hundred thousand live births, although no such statistics are available in the United States Vital Statistics. Accordingly, the death rate per hundred thousand live births for women receiving adequate medical care was probably less than 10 per hundred thousand live births in the period 1965-67. In addition, the long term trend in death rates from pregnancy since the 1920's has been a reduction by more than 50% in the death rate from pregnancy each 10 years. There is some evidence that the long term trend is slowing down, but if it holds, the death rate for women receiving adequate medical care in the years 1973-75 will be about 5 per 100,000 live births.

In comparing the death rates caused by abortion and pregnancy, it should be noted that in the case of legal abortions, the woman is generally given what is considered to be adequate medical care. Accordingly, no improvement in medical care based on today's knowledge is likely to significantly reduce the death rate from abortion.

While United States Vital Statistics list nearly 1,000 deaths from pregnancy and related causes in 1967 and 1968, with only 130 deaths from abortion in 1968 and 160 in 1967, abortion is not thereby shown to be safer. The pregnancy death quantities are deceivingly high because all abortion deaths are *included* in maternal mortality figures, as well as a number of women who die during or after pregnancy of kidney disease, high blood pressure, and stroke conditions that might have claimed them whether they were pregnant or not. In addition, the risk from one pregnancy is spread over about 12 months. If aborted, the woman may become pregnant again soon, as indicated by the following table by KOYA, MURAMATSU, Bulletin of the Institute of Public Health, (Japan) IV, No. 1-2, Sept. 1954, for women not using contraceptives.

Months	Percentage Pregnant	
	After abortion	After childbirth
3	19.2% (448)	0.0% (354)
6	32.8%	2.5%
9	43.5%	8.5%
12	50.0%	16.9%
15	60.0%	26.3%

The Woman's Health Is Not A Justification For Abortion.

The experience of nearly every area where comprehensive statistics have been kept indicates that abortion is far more likely to cause death, emotional harm, mental harm, and physical harm to the woman than continuation of the pregnancy.[16] Willke lists Sweden's abortion death rate at 40 per hundred thousand, England's at 75 per hundred thousand, and points out that Maryland's initial rate the first year was 77 per hundred thousand and New York's is low because of the women who go home to die. They also point out why the low abortion death rates from Communist nations are "worse than useless"(p. 64).

The reasons why abortion causes mental harm to the mother have been stated by Conrad W. Baars, M.D.[17], who stated that a woman who is pregnant and has an abortion is going to be deprived of the most important psychological help, namely, the love of her child; they frequently think it will help, but it is actually pushing them back into loneliness; the essence of love is the affirmation of another, nothing is less affirming than the denial of the child by abortion which kills another human; the strong disaffirming of another, who is closer to her at that time than anyone else, can have strong adverse effects.

Hilgers has stated:[18] "In Colorado, 71.5% of all abortions are being done for psychiatric reasons. The

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[16] *Ibid.* pp. 37-51, 62-73.

[17] "Love and Curing The Neurotic," Arlington House, 1971.

[18] "Induced Abortion: A Documented Report," T. W. Hilgers, M.D., P. N. Shearin, M.D. Presented to Minnesota State Legislature, January 1971, pp. 16, 17.

similar figures for California (1969) and Oregon are 90% and 97% respectively." (Note: In 1970 in California the rate went to 98%. See *infra.*) Hilgers continues:

"One would get the impression that mental illness in the pregnant woman is extremely common and very serious when present. However, in fact, in all of these states, the 'mental helath' clause has distinctly been abused. This abuse, Doctor Cavanaugh says, has led to a decline in the quality of patient care and a gross dishonesty in medical practice–particularly psychiatry. We must, therefore, look carefully at the psychiatric problems associated with pregnancy.

"Noyes and Kolbe's textbook of psychiatry states that 'experience does *not* show that pregnancy and the birth of the child influence adversely the course of schizophrenia, manic depressive illness or the majority of psychoneuroses.' On the other hand, those psychoses which are initiated by pregnancy rarely persist. Patients tend to recover after a comparatively short period of time and in some cases may recover spontaneously before full term is reached. Women who show permanent impairment of mentality following childbirth belong to the class of potentially psychotic for whom pregnancy is merely an ancillary factor in the pathogenesis of the psychosis. In such women, an induced abortion cannot be curative and it may have unresolved conflicts with guilt and added depression which is more harmful than the continuation of the pregnancy–(see section on complications–psychiatric sequelae).

"There is evidence to suggest that serious mental disorders arise following abortion more often in women with real psychiatric problems and that paradoxically, the very

women for whom legal abortion may seem justifiable are also the ones for whom the risk is highest for post-abortion psychic insufficiency.

"It should be pointed out that suicide in the pregnant woman is *extremely* rare. In fact, it is about 1/6th the rate seen in nonpregnant women of the same age. Furthermore, as Asche pointed out, it is virtually impossible to ascertain accurately whether a woman is suicidal. In the State of Minnesota, the Minnesota Maternal Mortality Committee, reported only 14 suicides associated with pregnancy in well over 1.5 million live births between 1950-1966. (The Minnesota Maternal Mortality Committee studies *in detail* all deaths in women which occur during pregnancy or within a period 90 days *following* delivery). Ten of these 14 *had delivered* before the suicide, and all 14 were married. In retrospect, these deaths probably could have been prevented if adequate psychiatric care had been obtained and utilized. The explanation of why so few pregnant women commit suicide appears to be that women–including the unwed–receive a good deal more attention from society when pregnant than when not pregnant. Also, there may be certain physiologic and instinctive factors which manifest themselves in greater maternal protectiveness.

"Eminent psychiatrists from throughout the world agree that, if *all* the evidence is taken into *careful* consideration, few neurotic or psychotic women are *ever* benefited by termination of pregnancy and that the few that would be are extremely difficult to select.

"When abortion is substituted for adequate psychiatric care (and there is much evidence to suggest that this is happening), then there is a distinct danger of minimizing established

psychotherapeutic principles. Unfortunately, it is the distressed woman who ultimately faces the full impact of this minimization. She is the one who cries out for help and she is also the one who is turned away."

Even assuming *arguendo* that abortion helped some types of illness, and abortions for mental health reasons were limited to the mentally ill instead of being used as a vehicle for abortion on demand, difficulties might arise from establishing the principle that the life of one person should depend on the judgment of another person who is mentally ill, because that person is mentally ill.

A Negative Feeling In Early Pregnancy Is Common But Temporary.

Hilgers states:[19] "Based on the knowledge that the majority of women who have a negative or ambivalent reaction to their pregnancy during its early stages do, in fact, as the pregnancy advances, develop a more positive acceptance of the pregnancy, supportive care of the pregnant woman becomes all the more reasonable. Much has been said of the unwanted child, yet the majority of women who expressed ambivalent or rejecting attitudes toward the pregnancy in the early months, now, in the third trimester, express positive, or at least more accepting, attitudes toward the baby.

"Indeed this phenomenon of early rejection and later acceptance has been spelled out by Gardiner in *Williams Obstetrics*, 13th edition, 1966:

[19] *Ibid.* pp. 36, 37.

" 'The initial acceptance and adaptation to the pregnancy by the particular patient will depend upon the implications regarding future responsibilities and future personal and intrapersonal relationships engendered by the pregnancy. At that stage (the first three months), the pregnancy exists only as an abstraction and can be accepted or rejected depending upon the character and personal significance of future implications . . . .

" 'So real and life-threatening are these emotional reactions to these women that they not only reject the existence of the pregnancy before they, themselves, are engulfed and destroyed. Under the spell of this distorted thinking and reasoning, the medical hazards of instrumental abortion fade into insignificance.

" 'It is *not unusual* (however) for women who will become good mothers, or those who have already demonstrated their excellent maternal qualities with their older children, to react initially to the diagnosis of pregnancy with resentment, frustration and depression, only to express *strong, genuine, positive feelings* of acceptance as the pregnancy advances and fetal movements appear.'

"Considering this, it seems fair to ask what happens if their fearful request for abortion is denied. Hook reported that of 249 women refused an abortion in Sweden, 86% gave birth, 11% had induced abortions (22% had threatened to do so), and 3% had spontaneous abortion. Of this group

12% had threatened suicide but no suicides or suicide attempts occurred. Kolstad reported that of 113 women refused abortion in Norway and who carried the pregnancy to term 84% were glad that the pregnancy was not terminated, 9% were uncertain as to their feelings, and only 7% were discontented. Furthermore, Murdock showed that by supporting pregnant women throughout their pregnancy, the pressures for abortion were significantly decreased. He suggested that the pregnancy carried to term may have been a positive factor in the mother's return to normalcy."

Medical Complications Of Induced Abortion.

Hilgers states:[20] "The American College of Obstetricians -- Gynecologists has stated: 'The inherent risk of a therapeutic abortion are serious and may be life-threatening, this fact should be fully appreciated by both the medical profession and the public. In nations where abortion may be obtained on demand, a considerable morbidity and mortality has been reported.'

"This is suppored by a statement issued by the Royal College of Obstetrician-Gynecologists (Great Britain): 'Those without specialists' knowledge, and these include members of the medical profession, are influenced in adopting what they regard as a humanitarian attitude to the induction of abortion by a failure to appreciate what is involved. They tend to regard induction of abortion as a trivial operation, free from risk. In fact, even to the expert working in the best conditions, the removal of an early pregnancy after

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[20] *Ibid.* pp. 23-31.

dilating the cervic can be difficult, and is not infrequently accompanied by serious complications. This is particularly true in the case of the woman pregnant for the first time. For women who have a serious medical indication for termination of pregnancy, induction of abortion is extremely hazardous and its risks need to be weighed carefully against those involved in leaving the pregnancy undisturbed. Even for the relatively healthy woman, however, the dangers are considerable."

Under the heading "Mortality Rates" Hilgers states:

"Obviously, the worst complication resulting from a legal abortion is death itself. In Table I you will see listed the *legal abortion* mortality rates for several countries which have eliminated the legal safeguards to abortion. Included also are the 10 maternal deaths which New York City had during the *first 3 months* following enactment of their law.

"In the majority of countries, including New York State, a woman is more likely to die from legal abortion than she is if she were to carry the pregnancy to term (this is in contradiction to what proponents of abortion would have us believe). It must be emphasized that these figures are for *legal* abortion, done by licensed physicians in fully accredited medical facilities. The tragedy is that these deaths are preventable simply by having a strong abortion law. In Minnesota, this tragedy is compounded by the fact that there is probably no safer place in the world for a woman to have her baby."

Table I, referred to above, is as follows:

Legal Abortion Mortality Rates

Country/State	Deaths/100,000 legal abortions
Finland	66
Denmark	41.4
New York City	greater than 40
Sweden	39.2
Great Britain	30
Yugoslavia	10
Japan	7
Hungary	7
Czechoslovakia	2.5

"(Those countries with extremely low death rates have laws which generally do not allow abortion after 3 months and, as such, are not comparable to present changes in United States abortion laws.)

"Addendum: Minnesota Maternal Mortality Rate = 14/100,000 live births."

(Note: Willke criticizes the accuracy of the low rates in Communist nations and points out maternal mortality rate includes abortion deaths as well as others which may have happened if the woman were not pregnant, while abortion excludes those who die elsewhere and some of those whose death is caused only indirectly by abortion, such as by hepatitis.)

Hilgers continues: "There are a whole host of major complications resulting from legal abortion which at their

worst cause death, but much more frequently result in either temporary or permanent damage to the woman or her offspring. Again, using the world's medical literature as documentation, these complications will be presented in some detail. They will, however, be limited to the 4 main methods through which abortion is procured in the United States: dilation and curettage, suction curettage, saline instillation and hysterotomy.

"Infection--Pelvic infection is a common sequel to legal abortion. While the incidence varies slightly from country to country, consensus reveals an astonishing high rate. (See Table II)."

Table II, referred to above, is as follows:

The Incidence Of Pelvic Infection Following Legal Abortion

% EARLY INFECTION	% LATE INFECTION	METHOD	COUNTRY
5.0	-	D & C	Germany
5.0	15.0	D & C	Czechoslovakia
4.9	-	D & C	Czechoslovakia
4.0-5.0	12-15	D & C	Czechoslovakia
5.0	-	D & C	Rumania
7.0	-	D & C	USSR
2.6	9.7	D & C	Poland
	28.2	D & C	USSR
	12.0	D & C	USSR
2.0	-	D & C	Bulgaria
1.6-2.3	-	Saline	Sweden
15.4	-	Saline	Great Britain
10.4	-	Saline	Japan
1.0	-	Saline	Denmark
2.0	-	Suction	Great Britain
3.9	-	Suction	Czechoslovakia
5.0	-	Suction	Germany
10.0	-	All methods	Great Britain

Hilgers further states: "The incidence appears to be highest 2 - 3 weeks after the abortion at a time when the patient has been lost to follow-up. There is also good evidence to suggest that the *young* woman pregnant for the *first* time stands a much greater risk of infection (15.8%).

"These infections are the direct result of the instrumentation involved in the abortive technique and are manifest as salpingitis (infection in the fallopian tubes) or endometritis (infection in the lining of the womb). When out of control, these infections can cause septic shock with rapid death or pelvic thrombophlebitis (inflammation and blood clot formation in the pelvic veins) with sudden death by pulmonary embolus (blood clot from the pelvic veins which dislodges and is carried to the lungs). These infections can also result in sterility because they scar the tubes to a point where they no longer function properly.

"**Hemorrhage**–Major hemorrhage is another complication and can result in death by exsanguination. Again, the incidence is much too high to be acceptable from a medical standpoint. (See Table III)."

Table III, referred to above, is as follows:

Incidence Of Major Hemorrhage Following Legal Abortion

% MAJOR HEMORRHAGE	METHOD	COUNTRY/STATE
2.3	D & C	Germany
5.0	D & C	Czechoslovakia
8.6	D & C	Rumania
2.6	D & C	Poland
14.2	D & C	USSR
5.9	D & C	Bulgaria
21.0	All methods	Great Britain
8.0	All methods	Colorado
3-7.8	Saline	Sweden
15.4	Saline	Great Britain
3.6	Saline	Japan
2.0	Saline	Denmark
3.8	Suction	Great Britain

Hilgers continues: "To think that this won't happen in America is naive. During the first year of Colorado's new abortion law, 8% of patients needed one or more blood transfusions (most of these abortions were done by dilation and curettage, or suction curettage). It should be mentioned that every time a blood transfusion is given, there are certain inherent risks, e.g., allergic reactions and serum hepatitis.

"Uterine Perforation--Perforation of the uterus can occur as a sequel to dilation and curettage. This occurs primarily because the surgeon operates by 'touch' alone and not under direct vision. Secondarily, the pregnant uterus is much softer than the non-pregnant uterus, lending itself to easier perforation. The incidence of perforation throughout the world is presented in Table IV."

Table IV, referred to above, is as follows:

The Incidence Of Uterine Perforation As A Result Of Legal Abortion

% PERFORATION	COUNTRY/STATE
0.11-0.28	Germany
0.14-0.80	Poland
0.10-0.18	Rumania
0.45	Czechoslovakia
0.20	Poland
1.2	USSR
0.4	Bulgaria
1.2	Great Britain
1.2	New York City
1.2	Colorado

Hilgers then states: "It is sad to note that New York City and Colorado are both experiencing relatively high rates of uterine perforation (1.2%). If in the process of perforation, the bowel or a blood vessel is torn, overwhelming infection and/or hemorrhage may occur which require an exploratory abdominal operation (30-65% with a perforation will need this operation). Subsequent pregnancy following a perforation is put in jeopardy because the perforation scar may rupture as the uterus expands.

"**Menstrual Disturbances**–Menstrual disturbances following abortion are not infrequent. (See Table V). This usually means gross irregularity in the appearance of the menstrual period, heavy bleeding with the menses or complete absence of menstruation. These disturbances may persist for many years. They are mostly the result of endouterine adherences or infection. This may lead to a number of more technical problems which need not be detailed here."

Table V, referred to above, is as follows:

The Incidence Of Menstrual Disturbance Following Legal Abortion

% MENSTRUAL DISTURBANCES	COUNTRY/STATE
3.1	Hungary
2.0	Czechoslovakia
1.0	Czechoslovakia
11-12 (5 year follow-up)	USSR
2.2	USSR
6.0	USSR
5.2	Poland

Under the heading "Subsequent Pathologic Pregnancies" Hilgers states: "Subsequent pregnancies are more often pathologic following abortion and this without question represents one of the most serious complications of induced abortion. The prematurity rate in Czechoslovakia prior to abortion on demand was 5% (not much different from the United States). Several years later, this had increased to 14%. Hungary and Japan have reported similar trends. The incidence in any one individual seems to be well correlated with the number of abortions a woman has; Hungarian studies reveal that the likelihood of premature delivery after one abortion increased to 12%; after two abortions–15%; and after three abortions –24%. It should be pointed out that prematurity is the leading cause of infant death in the United States, and one of the *major contributors* to *mental and motor retardation.* The authors are not aware of any studies which have been done regarding psychiatric sequelae following premature

birth as the result of a previous abortion, but would suspect a high correlation.

"A number of countries have reported a significant increase in incidence of ectopic pregnancies (pregnancies which occur someplace other than in the womb). In fact, Japan sees ectopic pregnancies in 3.9% of women, which is 4 to 8 times more frequent than in the United States. Ectopic pregnancies are not infrequently life threatening because of rupture and hemorrhage. Again, tubal malfunction secondary to infection seems to be the prime cause.

"Spontaneous abortions and fetal death before the onset of labor are reported to be significantly more common following legal abortion in those countries with weak abortion laws. Complicated labors (prolonged labor, placenta previa, adherent placenta) and excessive bleeding at the time of delivery are also more common when compared to women who have not had legal abortions. These all result in increased obstetrical intervention.

"**Transplacental Hemorrhage**–It has long been known that a woman who is Rh-negative is very susceptible to a special kind of problem if her consort is Rh-postive. Any given pregnancy may be a stimulus for the mother to develop antibodies against the baby's red blood cells (i.e., she becomes sensitized) so that in a subsequent pregnancy, these antibodies may destroy the baby's red blood cells resulting in an anemia in the unborn child which may be life-threatening. This sensitization occurs through the leakage of the baby's red blood cells into the mother's circulation (transplacental hemorrhage) usually at the time of delivery. Therefore, first born children are rarely affected. In spontaneous abortion, this sensitization *rarely* occurs.

However, with *all* methods of induced abortion sensitization has been reported to occur in 3 - 10% of Rh-negative women. Recent advances have allowed us to prevent this complication in 100% of women treated. However, because tests on the fetus cannot be performed to rule out sensitization of the mother, a number of women, who have not become sensitized, will be needlessly subjected to this expensive treatment.

"Sterility—There are a number of complications which do not appear immediately following the abortion. Poland has reported that 6.9% of women were sterile 4 to 5 years after abortion. Japan has reported 9.7% with subsequent sterility on 3 year follow-up and other countries have had similar experience. This appears to be the result of inadequate regeneration of the lining of the womb following dilation and curettage and/or infection as previously mentioned. There is evidence also to suggest that the sterility may have an adverse psychological effect on the woman. As Jeffcoat stated, 'If this happens when a first pregnancy is interrupted for non-recurrent indication, such as rubella or fleeting psychological upset, the situation is tragic.'

"Miscellaneous—A number of miscellaneous complications occur which deserve mention. (1) The Czech's have reported that 33% of patients had decreased sexual libido 9 months after the abortion. Similarly, a study from Poland showed 14% to have decreased libido 4 to 5 years after the abortion. This is theoretically related to the psychotraumatic experience of the interruption and emotional weakness that follows. (2) Changes in the coagulability of the blood following legal abortion, although rare, have been reported. (3) Most pregnancies following hyster-

otomy will need delivery by Caesarean section to eliminate the possibility of rupture of the hysterotomy scar. (4) Endometreosis is a common sequel to hysterotomy. (5) A particular problem associated with suction curettage appears to be perforation of the bladder.

"Psychiatric Sequelae–The psychiatric sequelae of induced abortion are most difficult to elucidate. Reports on the incidence of emotional difficulties following abortion vary from 0 - 85%. The true figure lies someplace in between. The difficulties appear to be more common in mature and motherly women than in the more immature, psychopathic and unmotherly. This may be because the husband is most often the prime mover to an abortion in the married woman and in the unmarried, parents and friends are prime movers. As previously mentioned, the woman with real psychiatric illness prior to an abortion is at greater risk to develop significant problems post-abortion than is the psychiatrically 'stable' woman.

"Martin Ekblad interviewed 479 women prior to abortion and again 2-1/2 to 3 years later. At follow-up, he found *10%* felt the operation unpleasant; *14%* had mild self reproach; and *11%* had serious self reproach and self regret. This is perhaps the best single study which has been conducted in this area.

"Seigfried, in 1951, studied 61 women, 2 years after abortion, and found *13%* to have serious self reproach. Beck, in 1964, studied 50 women 4 months after legal abortion and 9 had suppressed remorse which was expressed as various psychosomatic symptoms such as abdominal discomfort, vomiting, pruritis vulvae, dysmenorrhea, frigidity, headache, insomnia, fatigue, etc. Niswander and Patter-

so in 1967 studied 17 women, 8 months post-abortion for rubella. Eleven of the 17 reacted unfavorably and 8 had long term negative experience.

"It would appear that 15 - 25% of all women undergoing legal abortion will have some long term psychologic reaction. According to Helene Deutsch, the pregnant woman can initially deny the unborn child, but once she admits she is pregnant, she feels an unconscious attachment to him. The longer she stays pregnant, the more the child becomes a part of her. As a result, after abortion, many women feel that part of them is gone."

Techniques Of Induced Abortion.

Abortion can best be appreciated by seeing one from over the doctor's shoulder; nevertheless, some of the potential for damage can be understood by reading the following by Hilgers.[21]

"Potts has reported on the many ways of producing an abortion in a pregnant woman, many of them of only theoretical utility. He has described certain medical methods, including agents that destroy the fetus or placenta such as X rays, antimitotics and antimetabolites, together with agents that interfere with the maternal reaction to pregnancy such as monoamine oxidase inhibitors, non-steroidal estrogens, and immunological methods. Recent reports by Karim and Roth-Brandel and others reveal their use of a new abortifacient agent, prostaglandin, which when administered by continuous intravenous drip usually induces premature labor

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[21] *Ibid.* pp. 18-22.

and results in abortion. Its side effects are presently being studied.

"Surgical techniques of abortion are of three general types: (1) scraping out or sucking out the fetus and its membranes from the uterus through the cervix and vagina after the cervix has been dilated with an instrument; (2) stimulation of premature labor and delivery, with or without ensuring the death of the fetus before delivery; and (3) hysterotomy, or direct surgical incision into the uterus with removal of the fetus, membranes and placenta.

"Presently available tests for pregnancy are usually unreliable until at least two weeks after a missed menstrual period, meaning that the human embryo is at least four weeks old when its existence is first discernible. One factor which frequently tends to delay the diagnosis of pregnancy is the slight vaginal bleeding often seen in early pregnancy and which the pregnant woman may mistake for a menstrual period. Another such delaying factor is the more or less constitutional menstrual irregularity which may lead a woman to accept the absence of menstrual period for a month or more.

"During the first twelve weeks of pregnancy, corresponding in practice, therefore, to an embryonic-fetal age of four to twelve weeks, abortionists rely upon dilation of the cervix and sharp curettage alone or suction curettage, which is usually followed by sharp curettage to ensure that no remnants of the fetus are left behind. In this procedure the woman is placed on her back on the operating table, her knees apart and hips and knees bent. She may be given general anesthesia, local anesthesia—by injections alongside the cervix (usually the only pain-sensitive structure involved)

or no anesthesia, depending on the size of the uterus and cervix, the ease with which it dilates, the age of the fetus (and therefore its size), and the preference of the operating doctor.

"The vagina is then cleansed with an antiseptic solution. A toothed instrument is clamped onto the cervix which is pulled toward the operator. The canal through the cervix is found with a long thin instrument called a sound, and then widened, usually by passing a series of progressively larger probes or dilators through it until it can admit the sharp curved curette or the tubular suction curette. Curettes for abortion range in size from 3.5 mm to 15 mm or about 1/8 inch to 5/8 inch, the larger sizes being necessary to tear through and scrape or suck out the tissues of the fetus, placenta, and membranes in the later stages of this first twelve week period of gestation. During the period from the fourth through the twelfth week of pregnancy the fetus has grown from 1/5 inch to 3-1/2 inches, has differentiated its organ systems, has arms and legs, has fingers and toes each provided with nails. Centers for bony development have appeared and begun to deposit bone in the skeleton which has been cartilage up to now. It may be of interest to the reader to read from the respected *Williams Obstetrics*, thirteenth edition, 1966, page 192: 'A fetus born at this time may make spontaneous movements if still within the amniotic sac or if immersed in warm saline.'

"If sharp curettage has been done, the pieces of the fetus with its membranes are placed on a sponge or in a pan and sent to the pathologist for identification. In suction curette equipment there is usually a glass jar

placed in line with the suction apparatus so that fetal parts will be trapped and not interfere with the machinery. In this case the glass bottle is simply unscrewed and sent to the pathologist.

"Stimulation of premature delivery, by a variety of means, is the method of choice by those who abort women pregnant for more than twelve weeks. Dilation and curettage is not used after about twelve weeks' gestation because it become prohibitively dangerous due to the larger size of the fetus and uterus, each now with larger blood vessels. The uterine wall is becoming progressively softer and thinner, the more likely to be perforated by a hard instrument. The fetal skeleton is becoming harder and the fetus more difficult to remove.

"Stimulation of effective uterine contractions, essentially the stimulation of premature labor, may be accomplished by injecting a variety of substances into the uterine cavity, either inside of or outside of the fetal membranes themselves. Most commonly used are concentrated salt (abandoned by the Japanese as unsafe after 1950), sugar, and formaldehyde solutions, irritant soaps, pastes, and rivanol (a mild antiseptic widely used in Japan).

"Schiffer has reported on the technic used in 28 abortions ranging from 14 to 24 weeks' gestation. The woman's abdomen was washed and prepared with antiseptic. Then, under local anesthesia a long needle was inserted through the abdominal wall, through the uterine wall and into the amniotic sac surrounding the fetus. As much of the fluid in this sac as possible was withdrawn through the needle, and, when possible, an equal amount of sterile salt solution was then injected and the needle withdrawn. Labor pains

began, on the average, 27.5 hours after injection and the fetus was delivered an average of 11 hours later. Some of Schiffer's patients received intravenous oxytocin, a drug used to strengthen uterine contractions, during the abortion. It is noteworthy that the reason that these substances stimulate labor is not yet known.

"During the period from twelve to twenty-four weeks' gestation the fetus grows to be about 13 inches long, weighing 1-1/4 pounds, with hair on its head, wrinkles on its skin and obvious sex organs. Survival of this 24-week size baby, though rare, has been reported.

"The Japanese often use a mechanical means to stimulate the pregnant uterus to start labor in performing mid-trimester abortions. Manabe reported on the use of the metreurynter–a balloon on the end of a flexible tube which is placed through the cervix between the uterine wall and the fetal membranes. The balloon is then filled with 3 to 10 ounces of sterile saline, causing it to become lodged in the uterus. The flexible tube is then hooked up to a pulley system between the woman's legs and a weight of 1 to 2 pounds is attached, exerting downward traction on the cervix. The Japanese feel that this force both dilates the cervix and stimulates the uterus to contract in an effort to expel the balloon and with it the unborn child. The average time from metreurynter inflation to delivery of the fetus–usually alive–varies widely but one report gives this figure to be about 26 hours.

"Manabe states that 'the ultimate aim in abortion is always the most physiologic delivery of the fetus, to ensure the safety of the mother.' He has found that the metreurynter method or the intrauterine instillation of 0.1% rivanol offer many advantages over other methods for mid-trimester abor-

tions because 'they result in a far more physiologic labor, evidenced by the fact that the fetus is normally delivered alive.' He points out that 'most fetuses, however, die shortly after delivery if fetal age is less than the middle of the seventh month. Survival of the fetus even several hours after delivery would pose serious moral and ethical dilemmas.'

"The least frequently used means of producing an abortion is the hysterotomy, which entails incision into the uterus and removal of the fetus. This method is used in pregnancies generally over 14 weeks. It is a major surgical procedure usually done through an abdominal incision. Up to about 16 weeks of pregnancy, it may be done through the vagina. After 16 weeks it is thought to be unsafe vaginally."

Even during early abortions, pieces come out which are obviously parts of what had been a small baby. This fact, and the fact that the purpose of abortion is to kill a human being, have led Dr. Andrew Ivy (Chicago Tribune, May 2, 1970) to point out that he was the expert medical witness at the Nurnberg War Crime Trials; that we are, in many ways, near the stage of respect for human life that Germany was in the mid 1930's; and that abortion may lead us to repeat the German crimes. Dr. Leo Alexander, in the July 14, 1969 New England Journal of Medicine, also pointed out the importance in Nazi Germany of the first small wedged-in lever through the right to life and how this made the following steps logical.

Permissive Abortion Laws Do Not Decrease The Criminal Abortion Rate.

As Table VI, Hilgers has set forth the following information:[22]

COUNTRY/STATE	EFFECT OF CRIMINAL ABORTION RATE
German Democratic Republic	Increased with liberal abortion law
	Decreased with strict abortion law
Japan	No effect
Great Britain	No effect
Yugoslavia	Increased
Hungary	No effect
Czechoslovakia	No effect
Switzerland	No effect
Bulgaria	No effect
Poland	No effect
Colorado	No effect
USSR	No effect

(Note: Similar results have been found for Sweden[23], Denmark[24], and California at least in the initial years[25].)

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[22] *Ibid.* pp. 32, 33.

[23] Rice, "The Vanishing Right To Live," p. 39.

[24] Shaw, "Abortion On Trial," p. 144.

[25] Dr. Lewis Saylor, State Director of Public Health.

Hilgers continues: "Not one country has seen a decrease in the criminal abortion rate as the result of adopting weak legislation. On the other hand, some countries have actually seen an increase. The German Democratic Republic is a good example. They saw an increase in the criminal abortion rate during the years 1947-1950, a time when they had a relaxed abortion law. In 1950, they adopted a law allowing abortion only for strict medical indications. This was followed by a precipitous fall in the number of criminal abortions.

"There are a number of reasons given for this paradox. It seems that the law plays an inherent educative role in forming the social ethic of any given society. When this social ethic is changed by eliminating all the legal safeguards to abortion, a whole new class of women, dependent upon that social ethic, find themselves asking for abortion. It also seems clear that women desire privacy when they are aborted and the legal framework, no matter how loose, does not allow for this."

Willke states:[26] "The prestigious British Medical Journal Lancet, in 1968 in a report entitled 'On the Outcome of Pregnancy When Legal Abortion is Readily Available' stated: '*Sweden's law, in its present form, has not sufficed to subdue criminal abortion.*'

"Dr. Christopher Tietze, certainly one of the world's outstanding biostaticians, and a man who incidentally favors legalization of abortion, has written in his report, 'Abortion In Europe:' '*One of the major*

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[26] "Handbook On Abortion," Dr. & Mrs. J. C. Willke, Hiltz Publishing Co., 1971, pp. 75-78.

goals of the liberalization laws in Scandinavia was to reduce illegal abortion. This was not realized. Rather, as we know from a variety of sources, both criminal and total abortions increased. It survives because of the relative lack of privacy of the official procedures. (U.S. Journal of Public Health, Nov. 1967.)

"Was this also true of Japan? Even more so in Japan. Of the 50,000,000 unborn children that have been killed by abortions in the last 22 years in Japan, and where abortions are very inexpensive, a full one-third of the procedures continue to be done illegally.

"What of the United States? What has been our experience to date? There hasn't been too much published because legalized abortion laws are new in our country. Dr. W. Droegemuller in the American Journal of Obstetrics and Gynecology, March 1969, reporting on 'One Year Experience With a Liberalized Abortion Law,' says that, '*This has not reduced the admissions for septic abortions.*' Sepsis (infection) is one of the most common complications of criminal abortion, and the number of septic cases admitted post-abortive to a hospital is a fairly good indication in a community of the number of criminal abortions being done.

"But perhaps their laws are too restrictive. What if abortion is completely available at the request of the mother? Wouldn't that eliminate illegal abortion? It didn't in Japan. It hasn't in England nor in any other major country to date.

"What is the reason why illegal abortions are not reduced? Here are some examples:

1) Suppose you are the wife of a man who wants another child. You do not. You become preg-

nant. If you go through official procedures in a hospital, your husband may find out. You don't want him to know, but you want to get rid of this baby, so you have an illegal abortion.

2) Suppose you are a married woman, and you become pregnant by another man. Your husband has been away, and he knows this would not be his child. Again, he must never know that you've become pregnant, so you have it done illegally.

3) Suppose you are a prominent citizen, and your teenage daughter becomes pregnant. You wish to avoid scandal. Hospital procedures are available to her. You cannot, however, take the risk of disclosure. You have it done in the privacy of an illegal situation.

4) Suppose you are poor. Perhaps your man has left you. There is a long waiting list at the public hospital, and much red tape you don't understand. You are frantic to 'get rid of it.' A friend tells you of someone who will. You go there.

"What of England? Hasn't the number of illegal abortions dropped there? The most authoritative report on this was published in the British Medical Journal, May 1970, by the Royal College of Obstetrics and Gynecology, and constituted a summary of the opinions of the consultant obstetricians of England. It said:

'The original protagonists for abortion law reform often argued that a large proportion of

*cases of spontaneous abortions hitherto treated in hospitals and nearly all the associated deaths were the result of criminal interference. Legalization of abortion would, they postulated, eliminate these. They brushed aside contrary arguments and evidence. Our figures show * * * that despite a sharp rise in the number of therapeutic ("legal") abortions from 1968 to 1969, there was not, unfortunately, a significant change in the number of cases of spontaneous abortion requiring admission to hospital.*

'The fact that legalization of abortion has not so far materially reduced the numbers of spontaneous abortions or of deaths from abortions of all kinds is not surprising. It confirms the experience of most countries and was forecast by the College's 1966 statement.' "

Incest And Rape Cause Few Pregnancies.

Willke states:[27] "If a girl is raped or subjected to incestuous intercourse and reports the fact promptly, she is usually taken immediately for medical attention. This consists of a douche, commonly a scraping of the uterus, and at times doses of medication, one or all of which, while done partially to prevent venereal disease, will also almost invariably prevent her from getting pregnant. If the rape victim would report her assault promptly, there would be, for all practical purposes, no pregnancies from rape. . . .

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[27] *Ibid.* pp. 32-36.

"Are there any statistics to support the fact that pregnancy is rare? There have been few good statistical studies in this country. In Czechoslovakia, however, out of 86,000 consecutive induced abortions, only twenty-two were done for rape. This figures out to one in 4,000. At a recent obstetric meeting at a major midwest hospital, a poll taken of those physicians present (who had delivered over 19,000 babies) revealed that not one had delivered a bona fide rape pregnancy. . . .

"Unquestionably, many would want her to destroy the growing baby within her. But before making this decision, remember that most of the trauma has already occurred. She has been raped. That trauma will live with her all of her life. Furthermore, this girl did not report for help but kept this to herself. For several weeks she thought of little else as the panic built up. Now she has finally asked for help, has shared her upset, and should be in a supportive situation.

"The utilitarian question from the mother's standpoint is whether or not it would now be better to kill the developing baby within her. But will abortion now be best for her, or will it bring her more harm yet? What has happened and its damage has already occurred. She's old enough to know and have an opinion as to whether she carries a 'baby' or a 'blob of protoplasm.'

"Will she be able to live comfortably with the memory that she killed her developing baby? Or would she ultimately be more mature and more at peace with herself if she could remember that, even though she was unwillingly pregnant, she nevertheless gave her child life and a good home (perhaps through adoption).

"Even from only the mother's standpoint, the choice is one which deserves the most serious deliberation, and no answer is easy or automatically right."

And, finally, isn't it a twisted logic that would kill an innocent unborn baby for the crime of his father!

Abortion On Demand Does Not Fulfill The Requirements For A Good Law Dealing With A Complex Social, Biological, Economic, And Moral Issue.

Congressman Lawrence Hogan has defined requirements of a good abortion law.[29]

"*First, it should reflect the best medical and scientific judgment available.* We deal with human life at its beginning. If the physicians and scientists tell us–as they do–that the fetus, at say, 15 weeks, is definitely a *human person*, how can we kill that human person without guilt? . . .

"*Second, a good law does not help solve one social problem by creating others.* Besides the problem of the unborn, unwanted child, we have the problem of 'back-alley' abortions and the problem of death or injury to the aborting mother through improper surgical techniques. The New York experience since last July indicates that a so-called 'liberalized' abortion bill does not solve these: it creates an 'abortion mentality' which fosters thousands of unnecessary abortions and it appears there have been *more* deaths than before, rather than fewer. We should not go down New York's road until we have time to study

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[29]Congressional Record, January 29, 1971.

and see where that road leads. . . .

"*Third, a good law should harmonize the rights of all interested parties.* Here the proposed bill completely overlooks the uncontroverted fact that the child in the womb is not just a growth in someone's body, like tonsils or an appendix, but is a real human being who, in my opinion, has the right to life. . . . .

"*Fourth, a good law should not foster crimes or put honest people into impossible crises of conscience.* Under similar laws in other states and in England, frequently an intended abortion results in the birth of a living child. Nurses are told to put him into a bucket and toss him into the incinerator. Thus the public policy of the given jurisdiction actually promotes what its laws define as *manslaughter*—and requires conscientious hospital personnel to witness or even help in the killing of a living human being, contrary to all their training, instincts, and moral convictions.

"*Fifth, a good law respects the common morality of a pluralistic community.* We are not talking about contraception here; we are talking about *killing* . . . ."

Even the pro-abortion California Medical Association (*supra*) admits that the idea of killing is presently socially abhorrent and that "semantic gymnastics are required to rationalize abortion."[30]

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[30]California Medicine, September 1970, pp. 67, 68.

A High Abortion Rate Correlates With A High Suicide Rate.

Both in European and non-European nations, those countries having the largest numbers of abortions have the highest numbers of suicides. Among the non-European nations, Japan appears to have the largest number and rate of abortions. Ceylon appears to have the highest average death rate from abortions of those countries publishing rates.[31] Among the approximately 40 non-European nations publishing suicide rates, Japan and Ceylon have the highest two suicide rates.[31] Statistics are not complete enough to draw further conclusions for non-European nations.

Among those European nations listing their suicide rates,[31] eight–Bulgaria, Czechoslovakia, Denmark, Finland, Hungary, Norway, Poland and Sweden–have relatively permissive abortion laws.[32]

The eight permissive abortion European nations have suicide rates about 80% higher than the other European nations. While suicide correlates very closely with abortions in European nations, it correlates slightly or not at all with climate, longitude, latitude, economic development, mountains or Communism. (While the four Communist nations have high suicide rates, all four are permissive abortion nations and their suicide rates are comparable to those of non-Communist permissive abortion nations.)

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[31]United Nations Demographic Yearbooks 1965-1969.

[32]Population Council, 245 Park Ave., New York, N.Y. 10017.

Here in the United States there is some basis for the belief that a low value on life—caused in part by young people believing that they themselves are unwanted, because of an abortion mentality creeping into society—is increasing our suicide rate and our drug-use rate.[33]

Permissive Abortion Laws Might Increase Venereal Disease Damage.

1967 United States Vital Statistics[34] indicate that syphilis and related diseases kill far more Americans annually than pregnancy and abortion combined. If a permissive abortion law causes even a slight percentage increase in venereal disease annually, it may cause far more physical harm and misery than that presently caused by the non-termination of unwanted pregnancies.

Dr. Geoffrey Simmons, an originator of the campaign sponsored by the Los Angeles County Health Department, Citizens for Eradication of Syphilis and Council of Free Clinics, has said[35] that even with the most effective preventive means, the condom, there is a ten per cent chance of infection from relations with partners having syphilis, but that most people use birth prevention means such as the pill which are not effective in preventing VD. "About half a million men and women have syphilis in the United States and don't know it . . . . The tragedy is that VD already is out of control and indica-

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[33]Los Angeles Times, Part 4, p. 4, May 25, 1971.

[34]"Vital Statistics of the United States, 1967, Vol. II, Mortality Part A," pp. 1-7.

[35]Los Angeles Times, Part 4, p. 4, April 1, 1971.

tions are that the current epidemic will get worse. . . . [D]rugs now being used are beginning to fail." He predicts that by 1975 instead of 2 million venereal disease cases in the country there will be 5 million, "barring some scientific discovery or strong preventive measures assumed on an individual basis by the population at large. . . . More than 100,000 persons who have syphilis will either have severe heart disease, be insane, paralyzed or dead from this disease."

The Abortionists Have Interpreted *United States v. Vuitch*, 91 S.Ct. 1294, 28 L.Ed.2d 601 (1971), As Permitting Abortion On Demand.[36]

A close reading of the Washington, D. C. newspapers or contact with the abortion referral agencies and abortionists in Washington, D. C., since the *Vuitch* decision was made public in April 1971, should be sufficient to convince the Court that the practical effect of the Court's *Vuitch* decision has been abortion on demand, which has stripped the unborn of all protection in Washington, D. C.

The Abortionists Interpret "Abortion For Mental Health Reasons" To Mean Abortion On Demand.

In California, for example, the ratio of abortions performed to applications in 1970 was 99%[37]–not a bad percentage considering that 1% of the women might change their minds. Ninety-eight per cent of the 1970 abortions

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[36] Life In America, May 1971, p. 2.

[37] "American Medical News," March 29, 1971, p. 6.

were based on preserving the mental health of the woman. In California, "mental health" should mean "mental illness to the extent that the woman is dangerous to herself or to the person or property of others or is in need of supervision or restraint."[38]

The number of abortions in California in 1970 was nearly 70,000. It is unreasonable to assume that all of these women in California think they have mental health problems sufficient to fall within the definition of California Health & Safety Code section 25954, and that 99% of these women are accurate in their analysis. If that were true, a significant number of women would be receiving mental health care after their abortion. In fact, there are no records indicating post-abortion mental-health care for any significant number of women receiving abortions in California or elsewhere. The mental health provision is an example of form over substance. The women say the magic words, "mental health," and pay their money and the doctor performs the abortion. KABC-TV[39] indicated the lack of respect the abortionists have for the limitations in the California abortion law as follows, "Yet doctors will tell you that any woman who wants an abortion can now secure one legally and safely in this state." Since doctors can earn hundreds of dollars each few minutes by performing abortions if they have a sufficient number of applicants for abortion, and a relatively small number of doctors can do a large number of abortions, it is not surprising that doctors in California have

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[38]California Health & Safety Code section 25954.

[39]In an ad in the weekly TV magazine of the Los Angeles Times, November 8, 1970, p. 17.

approved 99% of abortion applications for mental health reasons.

Amicus submits that if the Court wishes to give the unborn any significant protection, the Court must close the loophole the abortionists have read in to *Vuitch*. Amicus further submits that it is poor public policy to permit lawbreakers to force a change in the law by continually breaking the law.

CONCLUSION

In other nations and in other areas of United States law, the Right to Life is not extinguished by someone else's Right to Privacy. There are strong forces working to further diminish the Right to Life, so that if the Court takes this first step, nobody may be able to stop additional steps which may destroy the Right to Live of everyone. A 10-ounce child has survived premature birth, while 60-ounce children are being deliberately killed. Abortion causes far more harm to the mothers than continuation of the pregnancy would have caused, on the average. Abortion has not been made desirable by a change in people's beliefs. Abortion is unlikely to reduce the number of battered children. Rejection of the child is common early in pregnancy, when the woman must decide whether to abort, but nearly always disappears before birth of the formerly unwanted child. The first step of abortion has in the recent past logically led to catastrophic erosion of the Right to Life. Permissive abortion laws do not decrease the criminal abortion rate. Rape and incest cause few pregnancies, and pregnancy from rape and incest can

easily be prevented without abortion. Abortion on demand does not fulfill the general requirements for good law. European nations having permissive abortion laws have nearly twice the suicide rate of nations having strict abortion laws. Permissive abortion laws may cause far more damage from venereal disease than is caused by unwanted pregnancies. Abortionists have interpreted *Vuitch* so as to destroy all protection for the unborn. Abortionists interpret "abortion for mental health reasons" as abortion on demand.

Respectfully submitted,

ROBERT E. DUNNE

Attorney for Amicus Curiae

STATE OF CALIFORNIA)
) ss.
County of Orange)

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and employed in the County of Orange, over the age of eighteen years and not a party to the within action or proceeding; that

My business address is 322 Main Street, Huntington Beach, California 92648, that on JULY 30, 1971, I served the within MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE and BRIEF OF AMICUS CURIAE ROBERT L. SASSONE IN SUPPORT OF RESPONDENT (No. 70-18) on the following named parties by depositing copies as designated, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office in the City of Huntington Beach, California, addressed to said parties at the addresses as follows:

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For Petitioners.

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AUSTIN, TEXAS 78711
For Respondent. (2 copies)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on JULY 30, 1971, at HUNTINGTON BEACH, CALIFORNIA.

D. A. Standefer

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